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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/503,494 02/14/00 PERCIBALLI

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WILLIAM J PERCIBALLI
910 E MOUNTAIN SKY AVE
PHOENIX AZ 85048

PM82/1025

EXAMINER

JOHNSON S	ART UNIT	PAPER NUMBER
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3641
DATE MAILED:

10/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/503,494	Applicant(s) William J. Perciballi
	Examiner Stephen M. Johnson	Art Unit 3641
 <i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<p>Period for Reply</p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>THREE</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). <p>Status</p> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Aug 27, 2001</u>.</p> <p>2a) <input checked="" type="checkbox"/> This action is FINAL. 2b) <input type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p> <p>Disposition of Claims</p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>17-40</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input checked="" type="checkbox"/> Claim(s) <u>17, 18, 20-26, 28-34, and 36-40</u> is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>19, 27, and 35</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p> <p>Application Papers</p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input checked="" type="checkbox"/> The drawing(s) filed on <u>Feb 14, 2000</u> is/are objected to by the Examiner.</p> <p>11) <input checked="" type="checkbox"/> The proposed drawing correction filed on <u>Aug 27, 2001</u> is: a) <input type="checkbox"/> approved b) <input checked="" type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p> <p>Priority under 35 U.S.C. § 119</p> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> 1. <input type="checkbox"/> Certified copies of the priority documents have been received. 2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____. 3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). <p>*See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p> <p>Attachment(s)</p> <p>15) <input type="checkbox"/> Notice of References Cited (PTO-892) 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) <input type="checkbox"/> Other: _____</p>		

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the 3-dimensional structure with associated stitching or fiber axes along or about the z-axis of the fabric as well as the z-axis of the fabric must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

2. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

3. The proposed drawing correction filed on 8/27/2001 is disapproved because of new matter issues. There is no support in the application as originally filed for the detail in weave structure or for the specification of the z-axis in relation to the weave structure as illustrated in newly added fig. 4.

4. Claims 19, 27, and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 19, 27, and 35, what bullet is intended to be included by the descriptions “M193”, “M855”, “SS109”, “M80”, “LPS” and “PS”?

5. Applicant has made reference to Appendix B (Table 1(U)) to give evidence that there is a clear and well known meaning of some of the terms used to describe characteristics of bullets. However, the terms “M855” and “SS109” could not be located on this table. The term “PS”

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could be located but did not refer to a 7.62 mm caliber projectile and in fact gave evidence that a "PS" bullet is in fact known to have a different caliber "7mm", "7.35mm", or "7.92mm". Further, applicant has supplied a table associated with the U. S. Army specification for bullets without listing the source for this table. The source of this table is required to authenticate the information given.

With regard to items "M193", "M80", and "LPS", applicant makes reference to a table that lists U. S. Army standards as they relate to the claimed bullets "M193", "M80", "LPS", however this does not overcome the rejection. The reason is that organizations set industry and military standards and meet regularly and have the authority to modify these standards. Any connection to a claim that has these standards may have varying scope over time as the standards are changed.

6. Claims 17-18, 20-26, 28-34, and 36-40 are allowed.
7. Claims 19, 27, and 35 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
8. Applicant's arguments filed on 8/27/2001 (with regard to paragraph 4) have been fully considered but they are not persuasive. These arguments have been addressed in the preceding paragraphs of this Office action.
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is (703)-306-4158. The examiner can normally be reached on Tuesday-Friday from 7:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703)-306-4198. The fax phone number for the organization where this application or proceeding is assigned is (703)-305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-**306-4177**.



STEPHEN M. JOHNSON
PRIMARY EXAMINER